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2003 - Behar
Li Maitman
Rights
Asylum

9 September 2003

TO WHOM IT MAY CONCERN

I have undertaken to provide background information in connection with the Appeal by Mr Behar Lemani, a former resident of Kosovo, against an initial refusal of his asylum application by the Home Office.

I interviewed Mr Lemani on 1 May this year at the Chestnuts Community Centre, St Ann's Road, London N15. I am familiar therefore with his circumstances and the grounds on which his original application for asylum were made.

He told me that his father was an ethnic Albanian. His mother, who died in 1996, belonged to the Egyptian/Roma community and spoke Romanes.

The family lived in Shipol, Mitrovica region, where Mr Lemani was born in 1976. He had little or no schooling and, on leaving, no regular employment. For a while he had an Albanian girlfriend but her family did not accept him, and at one point threatened to kill him if he did not end the relationship.

Mr Lemani claimed that he had refused to either join the Albanian paramilitary KLR or to assist the Serbian militia and regular JNA, Yugoslav army. Despite this he was accused of collaboration with the Serbs and, in fear of his life, fled Kosovo and arrived in the UK in 2001. He was then about 24.

In commenting on this case, I have drawn upon my own past visits to Kosovo and ongoing contacts in the province. These include Romani community leaders and organisations not only in Kosovo, but also in Serbia, Montenegro and Macedonia,

My association with former Yugoslavia goes back more than fifty years, and I have lived for several years in Serbia and Macedonia. I speak Romanes and Serbian, as well as French and English. I am co-author of *Destiny of Europe's Gypsies* (Heinemann, 1972), published in seven languages and numerous articles on Roma and East European politics. I retired as a freelance journalist last year.

Grattan Puxon

General comment concerning present circumstances in Kosovo is that the security situation has now worsened. In western Kosovo, between Pec and Pristina, the newly emerged militia known as the Albanian National Army is setting up regular roadblocks and visiting and threatening Roma in the area, particularly in Pec, Decani and Gjakova.

In Kosovo, on the border with Macedonia, armed Albanian groups are active. According to a *Times* report today (9 Sept), Macedonian forces were engaged in a 12 hour battle near the frontier during which 10 persons died. There has also been a prison riot in Pristina this month and an UNMIK vehicle was ambushed and a UN soldier killed.

It is clear that it has been these and other incidents which have prompted the Home Office Minister Mrs Beverley Hughes to announce that she is for the Home Office taking a more cautious attitude towards the return of failed asylum seekers to Kosovo, especially if they are members of ethnic minorities. It is also clear that forceful removals have been suspended, although appeals such as that of Mr Lemani still remain to be decided on their individual merit.

I am conscious of my duty as an expert to assist those considering this Appeal and to do so to the best of my ability. The Home Office will be aware of its own resources that the UNHRC even last year was having extreme difficulties in its efforts to aid the repatriation of Roma, and persons of other ethnic origin, to the province.

It should be noted Mr Michael Steiner, the UN administrator, said in a statement that the province is not safe for returning Roma and that he cannot guarantee their safety. He was asked specifically by the Macedonian Government to assist in the return of some 700 Kosovo Roma refugees who had been stranded on the Macedonian Greek border.

The Deputy Prime Minister of Serbia Nebojsa Covic said in a statement in March 1998 that on 27 February that the situation in the area of southern Serbia was no different from the state of lawlessness experienced two years ago.

It is clear that the armed elements among the ethnic-Albanian population were once more destabilising the region. Death-threats, landmines, explosions, violent attacks on the police and citizens were on the increase.

The Secretary of State has pointed out that minorities, including Roma, are guaranteed representation in the Kosovo Assembly and at municipal level. They are supposed to be represented in the ranks of the police, judiciary, the Kosovo Protection Force and civil service. However, the reality on the ground, following the forced departure of around 80% of Roma, is far from satisfactory. Representation is nominal. I know of no Rom in the judiciary and only a small number have been recruited into the police and Protection Force, which of course is dominated by ethnic-Albanians.

The figure of 1,800 is given for the number of persons belonging to ethnic minorities returned to Kosovo in the first nine months of 2002. The number of Roma, to my knowledge, was less than 400 and some of them left again soon after. For example, a group of 100 attempted to return from Serbia to their homes in Gracanica (which I have visited) and found their homes occupied. They were prevented from taking up residence again and left after grenades were hung in a tree in the vicinity of the monastery church. This church used to be a place of pilgrimage for Roma. No pilgrimage has taken place for several years.

Kosovo Roma refugees have stated many times that they wish to return (though this not so in the case of Mr Lemani) if security can be provided and if their former properties can be returned to them, and repaired and rebuilt. They have also requested that those responsible for crimes against them (murder, rape, arson, theft) be brought to justice.

According to researcher Paul Polansky, thousands of homes belonging to the Romani community (Roma, Ashkalije and Egyptians) have been destroyed. Mr Lemani says that his home was trashed and rendered uninhabitable.

The Mitrovica region as a whole contained a Roma population in 1999 (prior to the conflict) of close to 8,000 occupying over 2,000 houses. By the summer of 2001 only 11% remained in 50 houses. A total of 1,974 houses had been partially or completely destroyed. Not one Romani home had been re-built.

In Mr Lemani's home village of Shipol, there was a Roma population of 100 living there prior to the 1999 conflict, according to a field survey carried out by Mr Polansky. They occupied ten houses. After the NATO intervention, no Roma were found in Shipol and their houses had all been destroyed.

During the conflict between Yugoslav forces and the KLA, and the subsequent NATO intervention, the entire Romani quarter of Mitrovica was gutted. It is a measure of the unsatisfactory situation prevailing in that part of Kosovo in particular that this once-thriving *mahala* of many thousands, centred around ulica Fabrika, has never been re-built. Nor has any compensation been awarded to Roma for the deliberate and systematic burning down of hundreds of houses.

One is reminded that even during the occupation of Yugoslavia in the Second World War, the Roma of Mitrovica were spared such a fate. As I have noted in "Destiny of Europe's Gypsies", Roma then had to wear a yellow armband with the word *Zigeuner* and some were conscripted for forced labour. Although a number of Roma were hanged, for supporting the partizans, the quarter as a whole was left alone mainly because of their adherence to the Moslem religion.

The future of course cannot be accurately predicted. But my sources say Roma are more anxious than a year ago. They are being told that there is no place for them in an independent Kosovo, which may well be declared by 2006. Of the remnant within the province, many are preparing to leave.

The position of Mr Lemani, like that of other persons of mixed ethnicity, is particularly difficult and hazardous. A strong prejudice is directed against persons who marry outside their ethnic group, like his father, and against the children of mixed-marriages.

Further, in commenting on Mr Lemani's application, I feel that it may be helpful duty to draw the attention of the adjudicator to a quite similar recent case. That is the case of Ms Alketa Hoti, who on 1 May 2002 was granted leave to remain in the UK on her appeal against deportation, based on Article 8 of the European Convention on Human Rights.

The adjudicator ruled: "I believe that it would be inhuman to return the Appellant at the present time, and that her removal would be in breach of her human rights to respect for her physical and moral integrity under Article 8. I am satisfied that a degree of physical and moral detriment would arise from her removal and return to Kosovo. The appeal is allowed."

In addition I should point out that the UN Development Programme Report at the end of June 2002 confirmed complaints about restriction of movement and said Roma have experienced "obstruction of justice", problems with return and reintegration, and defamation from public officers.

The Ombudsperson Institution in Kosovo reported to the UN that "the people of Kosovo are therefore deprived of protection of their basic rights and freedoms more than three years after the end of the conflict."

Even last year, the UNHCR was warning against forced expulsion of Kosovo Roma refugees who have sought asylum in Germany and elsewhere. "Members of ethnic minorities are still under danger in Kosovo," said Mr Stefan Berglund, chief of the UNHCR office in Germany. He said despite careful planning, attempts to return Roma had met with incidents of stoning, discrimination and hardship.

In August 2002, there were explosion at Klokot and outside Pristina A Roma house was set on fire at Orahova and firemen stoned and prevented from putting out the fire. The man who called the fireman had his house set ablaze by ethnic Albanian neighbours.

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PLEASE QUOTE

Our reference

JB/LIMANI/04489/N

Your reference

17 March 2004

Dear Mr Puxon,

Re Behar Limani

I thank you for your report in support of Behar's asylum and human rights appeal hearing. Your report is dated 9th September 2003. If you have not received payment for your report you should do so shortly.

The appeal hearing is now to be heard on 2nd April 2004. I request your further help on one matter, and enclose a copy of Behar's appeal statement which may assist you in responding to my query.

Behar fears return to Kosovo as a member of an ethnic group which is subject to persecution from the Albanian majority. He is an Albanian speaker. His mother was Egyptian and his father Albanian. Although Behar will be known to be an Egyptian by those in Kosovo who know him and his family, it is likely to be suggested by the Adjudicator that he could live freely elsewhere in Kosovo where no one would know of his ethnic background.

Behar claims that he his accent would reveal his ethnic origin and, having had no formal education, it will be obvious to Albanian Kosovons that he is of Egyptian ethnicity. He is not obviously dark- skinned.

I would be grateful if you could comment on Behar's view that he is likely to be recognised as an Egyptian throughout Kosovo, and therefore be at risk of persecution, even by those who do not know his ethnic background.

Please do not hesitate to contact me if you require any further information about Behar's case.

I thank you for your attention to this matter. Please let me know if you require payment for preparing a short report on the above basis.

Yours sincerely,
Julian Bild

julian@tyrerroxburgh.co.uk
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Community
Legal Service



B E T W E E N :

BEHAR LIMANI

Appellant

— and —

**The Secretary of State
for the Home Department**

Respondent

**APPELLANT'S WITNESS
STATEMENT**

I, Behar Limani, of HMP Wormwood Scrubs, PO Box 757, Du Cane Road, London, W12 0AE, will say as follows and confirm that this statement is true to the best of my knowledge and belief:

1. I am the Appellant in this matter. I am a Kosovan, of Gypsy ethnicity, date of birth 16 June 1976. I make this statement further to my asylum appeal hearing.
2. My asylum application was refused because I failed to return a completed SEF in time. However, I did not receive the SEF until the day before it was due to be returned to the Home Office. It was sent to the wrong address and was then forwarded to me. The Home Office was aware of my correct address but mistakenly sent the SEF to an earlier address. I was on immigration bail at the time, and also on bail due to the criminal proceedings concerning the fire at Yari's Wood, which the Home Office of course had a keen interest in. I am sure therefore that the Home Office knew my address at the time. When the SEF eventually reached me, it was too late to complete and return in time. I had no immigration solicitor and am barely literate. I could not have completed and returned without help. I had no such help.
3. I need to provide some information in regard to my earlier claim for asylum in the U.K. Where I give dates, they are to the best of my memory. So much has happened to me over the last few years that dates and periods of time have become very confusing for me. I have had no formal education at all, in fact only learning to write since I have been in prison in the U.K.
4. I first claimed asylum in the UK on 3rd November 2001. I had arrived in the country two days earlier. On claiming asylum, I was sent to the Oakington Reception Centre where my asylum application was processed. I was represented in that initial claim

by a caseworker from the Immigration Advisory Service (IAS). The caseworker's interpreter took some details of my problems. I told him about the racism I had suffered due to my race. I also told him of problems I had with the family of a girlfriend in Kosovo. Her family objected to me going out with this girl because of my Roma ethnicity. When I attended the asylum interview at Oakington, the interpreter I had met beforehand interpreted at the interview. He told me that he would give my statement to the immigration officer. I answered some questions about the area I lived in in Kosovo, but the interpreter answered the rest of the questions himself, whilst talking to me about other things. I left Kosovo because of the problems I faced due to my ethnicity and not solely due to my girlfriend's family. I had faced many other problems. However, I did not understand the asylum process at Oakington and never had an opportunity to explain fully my life in Kosovo and the problems that forced me to leave.

5. That asylum application was refused and went to an appeal. However, I had had no contact at all with my legal advisor at the IAS after leaving Oakington. Following the refusal of my asylum application, I was moved to Campsfield House and then to Yarl's Wood detention centre. I was detained in Yarl's Wood at the time of my asylum appeal hearing. I was taken from detention to the appeal hearing centre. There, I met someone who said they were my legal representative from the IAS. I told them that they could not represent me at the appeal as I had not met them before and had not discussed my case with them. They did not bring an interpreter with them. Although I now speak English quite well, at that time my English simply was not good enough for me to have a proper conversation with my solicitor without an interpreter present. My legal advisor then withdrew from the appeal. I was taken into the court. I had no legal representative and there was no court interpreter. I cannot remember being asked any questions but the judge may have asked me a question or two. I told him I could not proceed without legal help and an interpreter. He then said that I must go back to the detention centre and wait for his decision. I never received a copy of the decision.
6. I remained at Yarl's Wood until the time of the fire on 14th February 2002. During the fire, I fled from the detention centre, but was picked up by the police on the following day. I was then taken to a police station and held there for seven days, then taken to Harmondsworth detention centre for four days, and to Manchester prison where I was held for one month and twelve days. Without having been accused of an offence or charged with anything I had spent almost six months in detention in the UK simply for claiming asylum here. I had no legal advice and eventually agreed, under pressure, to a request from the Immigration Service that I sign some documents which allowed them to remove me back to Kosovo. I could not cope any longer in prison. I think that was at the end of April 2003. I had not been informed nor had I understood at that time that my asylum appeal had been dismissed. It is only since meeting my current solicitor that I have been informed that my asylum appeal was dismissed on the day that I attended for the hearing.
7. My current solicitor tells me that the IAS applied for the appeal hearing to be adjourned, as they had had no contact with me following the refusal of my asylum application. They did not know where I had been moved to after Oakington. That adjournment request was refused.

8. I was removed to Kosovo in April 2002, but stayed there for only one day after my arrival.
9. My problems in Kosovo as a result of my race began from my earliest memory. I am from the village of Shipol in the Mitrovice region. My mother was a Gypsy. I do not know anything about her family background, but believe she may have come from Serbia. I never, as far as I remember, met any of her family. She is dead now. I grew up speaking Albanian, though learnt a little Serbian from my mother. She also spoke another language but I do not know what that was and she never tried to teach it to me. My father was of Albanian origin. Our village was mainly ethnic Albanian. People knew my mother was a Gypsy. We were shunned because of that. I remember from an early age not being able to mix with Albanian people. There were maybe 10,000 people in the village, but only 20 or 30 who were Gypsies. We were the only family I knew of mixed ethnicity, but were treated as Gypsies. The Albanian families would not let us go to school and there was no school for the Gypsies. My mother, who came from the city of Mitrovice, had not been to school either. I had no education. My father worked as a builder and as a lorry driver. He did his best to try to teach us in the evenings at home. We had no television and I knew nothing about the world except for my life in the village
10. I never worked in Kosovo. As a Gypsy, it was simply impossible to find work. I just stayed in the village all the time doing nothing. I was frightened even of leaving the village. My experience of both Serbs and Albanians was that they hated Gypsies and that it was dangerous to be a Gypsy in their country. All the time I was afraid of meeting people due to the abuse I constantly suffered.
11. Many times Albanian villagers people would come to our house to try and terrorize us into leaving the village. I remember occasions when 10 or 15 people would come to our house late at night. They would shout at us to get out of the village. These were grown men and very frightening. I was beaten up by these men. Almost every month people would come to our house to harass us. They would force their way into our house, break our things and beat us.
12. From the age of 12 or so, Serbian paramilitaries would come to the village and search homes looking for weapons. They would come on a monthly basis, beat and abuse us, and break things. At the age of about 18, the Serbs tried to conscript me into their army. I received a letter requiring me to join their army. I would hide in the woods whenever we heard that Serb patrols were in the area, and avoided conscription in this way.
13. I was about 21 when I fell in love with an Albanian girl. She lived in Pristina, but went to school in Mitrovice. We wanted to marry. Her family would not allow it, and threatened to kill me if I continued seeing her. I stopped seeing her.
14. When I was about twenty-two, some Albanian men from the village came to look for me. They wanted to force me to join the KLA and send me for military training. I did not want to get involved in the war. I did not want to fight the Serbs. My father said I should leave. He gave me 7000DM so that I could get to safety. Next time the Albanians came, they smashed up our house. I ran into the woods to escape them. I did not go home after that. I just carried on walking and eventually arrived in Macedonia. I did not know where I was going and did not even realise at that time

that I had crossed the border. In Macedonia I survived as best I could. I slept out of doors. Sometimes some Gypsy families would help me. For a while, I camped with some Gypsies who lived on the edge of a village. Sometimes I had food, other times I did without food. I stayed in Macedonia for about one year. I was frightened all the time. I feared meeting Albanians and Serbs in Macedonia. I looked around for a way to leave and eventually found a lorry driver who agreed to take me to the U.K. Before leaving for the U.K, I decided to return home to see my family one last time.

15. When I got back to my home, there was no one there. The house had been smashed up. I lived in the woods around my village for the next two or three months hoping to find my family or some information about where they had gone. I saw Serbian soldiers everywhere and had to hide all the while. I saw fighting going on and houses being burnt. At one time, while hiding in the woods, I was hit by a stray bullet in the arm. The bullet went through my arm and I was not seriously hurt. I used my shirt to bandage the wound. I survived in that way for several months, begging for food and living in the woods. My family home was burnt down during that time. The basement was still habitable and I took refuge there, hiding from the Serbs and from the KLA. I must have been hiding for about a year and a half. Things got a bit easier when Nato troops came. They brought food aid. Whenever I met local Albanian men around the village, they would abuse and threaten me. I was accused of supporting the Serbs. They asked me why I hadn't joined the KLA. I was always in hiding from them, fearful for my life.
16. Eventually I gave up looking for my family. Again, I walked to the border of Macedonia and stayed there for two or three weeks. I found the lorry driver again. I travelled for three days, changing lorries on two occasions, eventually ending up in the UK. The smugglers told me that they would take me to the UK, but I had never heard of that country.
17. When I was removed from the U.K. to Kosovo, I was flown to Pristina. I was given no help when I returned. I took a ride from Pristina to my village, where I stayed for just a few hours. People immediately recognised me and threatened to kill me if I came back to the village. I could not find any of my family. The local Albanian population was armed and I had no choice but to flee again. I did not think that I could live safely anywhere in Kosovo. Other Kosovan gypsies I had met in the UK told me that they had fled their homes in various towns and villages around the country and I did not think I would be safe returning anywhere in Kosova.
18. I returned to the U.K. I could see no other place for me to go. I was detained at Dover on arrival. I claimed asylum. I was then charged with offences relating to the fire at Yarl's Wood. Despite the awful time I have had in the U.K, spending most of my time in prison, I still fear returning to Kosova where Gypsies are not allowed to live in peace, and where there is no hope of building a life for myself. I await my appeal to the Court of Appeal against the verdict and sentence in the Yarl's Wood trial. My solicitor and all the friends I made in the Yarl's Wood Support Group were shocked at my conviction. Much of the evidence against me was thrown out by the judge. A Group 4 officer gave evidence that I had helped save the life of families by getting them away from the fire. I was advised it was very likely that I would be acquitted. I was found guilty of violent disorder and sentenced to four years imprisonment.

19. Some months ago, I heard that my young brother, Betim, was killed in Kosovo. I heard this from someone who visited Shipol. I have no other details. I also had some contact with a relative in Albania who told me that, for a time, my family were in a refugee camp in Albania. They are no longer there and I do not know where they are now. I fear returning to Kosovo. I fear I may be killed.

This statement has been translated to me in Albanian at HMP Wormwood Scrubs.

Signed

Dated

Subject:

Date: Thu, 5 Feb 2004 07:43:23 +0000

From: Allison Bennett <ncadc-london@ncadc.org.uk>

To: Recipient List Suppressed;

**Roma and other minority nationals of Kosovo
- Should NOT be forcibly returned to Kosovo**

Letter below from UN mission in Kosovo, if you
require a hard copy, return a blank message to
ncadc@ncadc.org.uk and in the subject line put:
Subscribe Kosovo doc

Allison Bennett for NCADC

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UNMIK - United Nations
**United Nations Interim Administration
Mission in Kosovo (UNMIK)**

Office Of Returns And Communities
30 January 2004

Dear Ms. Shakkur:

Pursuant to your inquiry concerning UNMIK's
policy on the Forced Returns of minorities from host
states to Kosovo, I can reiterate that our policy is based
firmly on the UNHCR Position Paper on the Continued
Protection Needs of Individuals from Kosovo. While

there have been many such assessments, which can be useful in interpreting our policy, UNHCR issued its most recent paper in January 2003 which should serve as the definitive document for purposes of interpretation of UNMIK policy on this issue.

Concerning Kosovo Roma, both the UNHCR paper and UNMIK policy regards Roma to remain in need of international protection and thus, inappropriate for forcible return at this time. Such enforced repatriations of Kosovo Roma have been uniformly rejected by UNMIK in the past when proposed by host Governments. In talks with immigration officials from the United Kingdom, this policy has always been clearly explained and, as yet, UNMIK has not met with disagreement from British authorities on this policy concerning the need of Roma for international protection.

I sincerely hope that this answers your question with regard to UNMIK's position on forced returns and particularly our policy with regard to Kosovan Roma. If any further questions exist with regard to your understanding of the policies of UNMIK or their implementation thereof, I encourage to you send them forward to the Office of Returns and Communities within the Office of the United Nations Special Representative of the Secretary-General.

Sincerely,

James E. Rodehaver

Minority Rights Adviser, ORC

Office of the Special Representative of the
Secretary-General
United Nations Mission in Kosovo

Ms. Sawsan Shakkur
AR Legal Solicitors
London UK